

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CLERK, U. S. DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

FILED  
05/19/04  
MICHAEL N. MILBY, CLERK  
BY DEPUTY *N. J. Papp*

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

PAULA RIEKER, )

Defendant. )

No. CR-H-04-192  
(Harmon, J)

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States Department of Justice by the Enron Task Force ("the Department") and Paula Rieker ("Defendant") agree to the following (the "Agreement"):

1. Defendant will plead guilty in the Southern District of Texas to an Information charging her with one count of insider trading, in violation of 15 U.S.C. §§ 78j(b) and 78ff. Defendant agrees that she is pleading guilty because she is guilty, and that the facts contained in Exhibit A (attached and incorporated herein) are true and supply a factual basis for her plea. At the time it was committed by Defendant, the crime of insider trading carried the following statutory penalties:

a. Maximum term of imprisonment: 10 years

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GOVERNMENT  
EXHIBIT  
4129

Crim. No. H-04-25 (S-2)

(15 U.S.C. § 78ff)

- b. Minimum term of imprisonment: 0 years  
(15 U.S.C. § 78ff)
- c. Maximum term of supervised release: 3 years, to follow any term of imprisonment; if a condition of release is violated, Defendant may be sentenced to up to two years without credit for pre-release imprisonment or time previously served on post-release supervision  
(18 U.S.C. §§ 3583 (b) & (e))
- d. Maximum fine: \$1,000,000  
(15 U.S.C. § 78ff)
- e. Special Assessment: \$100  
(18 U.S.C. § 3013)

#### Sentencing Guidelines

2. The parties agree that Defendant's sentence is governed by the November 2000 Sentencing Guidelines Manual; USSG §2F1.2 governs the determination of the applicable offense level; and the calculation of the applicable offense level should be determined based on Defendant's insider trading, *to wit* the July 5, 2001, sale of Enron stock as alleged in the Information. The Department agrees, based on information known to it on the date of this Agreement, (a) USSG §3B1.3 does not apply in this case and (b) the Department will not oppose a downward adjustment of two levels for acceptance of responsibility pursuant to USSG §3E1.1.

3. The Department will advise the Court and the Probation Office of information relevant to sentencing, including criminal activity engaged in by Defendant, and all such information may be used by the Court in determining Defendant's sentence. Defendant understands that the parties' positions regarding the Sentencing Guidelines do not bind the Court and that the sentence imposed is within the discretion of the sentencing judge. Defendant may only move to withdraw her guilty plea if the Court imposes a sentence greater than the statutory maximum.

#### Waiver of Rights

4. Defendant waives all defenses based on venue (but reserves the right to move for change of venue pursuant to Rule 21 of the Federal Rules of Criminal Procedure), speedy trial under the Constitution and Speedy Trial Act, and the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed, in the event that (a) Defendant's conviction is later vacated for any reason, (b) Defendant violates any provision of this Agreement, or (c) Defendant's plea is later withdrawn. Defendant also waives her right to be charged by indictment returned by a duly constituted grand jury in the Southern District of Texas and consents to be charged by Information filed by the Acting United States Attorney.

5. Defendant understands that by pleading guilty she is waiving important rights including: (a) the right to enter a plea of not guilty; (b) the right to a jury trial; (c) the right to be represented by counsel - and if necessary to have the court appoint counsel to represent her - at trial and at every other stage of the proceedings; (d) the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses; and (e) the right to additional discovery and disclosures from the Department. Defendant waives any right to additional disclosure from the Department in connection with her guilty plea.

#### Defendant's Obligations

6. Defendant will provide truthful, complete, and accurate information to and will cooperate fully with the Department, both before and after she is sentenced. This cooperation will include, but is not limited to, the following:

- a. Defendant agrees to make herself available at all meetings with the Department and to respond truthfully and completely to any and all questions put to her, whether in interviews, before a grand jury, or at any trial or other proceeding.
- b. Defendant waives all claims of attorney-client privilege related to communications with any counsel for Enron in her capacity as an officer and employee of Enron.
- c. Except as required by law, Defendant agrees not to reveal any information derived from her cooperation to any third party

(other than her counsel) without prior consent of the Department, and hereby instructs her attorneys to do the same. Defendant agrees to inform the Department of any attempt by any third party to interview, depose, or communicate in any way with her regarding this case, her cooperation, or any other information related to Enron or transactions involving Enron.

- d. Defendant agrees to testify truthfully at any grand jury, court, or other proceeding as directed by the Department.
- e. Defendant consents to adjournments of her sentencing hearing as requested by the Department and agrees that her obligations under this Agreement continue until the Department informs her in writing that her cooperation is concluded.

7. The Department and Defendant agree that Defendant's counsel may be present at any meetings or debriefings between Defendant and the Department, and the Department will endeavor to provide reasonable notice of such meetings or debriefings, but counsel's presence is not required and, if necessary, Defendant agrees to be present and cooperate notwithstanding her counsel's unavailability.

8. Defendant agrees not to accept remuneration or compensation of any sort, directly or indirectly, for the dissemination through books, articles, speeches, interviews, or any other means, of information regarding her work at Enron or the investigation or prosecution of any civil or criminal cases against her.

9(a). As a condition of this Agreement, Defendant acknowledges and agrees to abide by her contractual obligation to reimburse the Enron estate in

bankruptcy for all key employee retention bonuses received by her in connection with her post-bankruptcy employment at Enron, a total of \$130,000. Defendant agrees to make this payment in full within 30 days of entering her guilty plea.

(b). Also as a condition of this Agreement, Defendant agrees to pay the penalty prescribed in her separate agreement with the Securities and Exchange Commission ("SEC"), a total of \$499,333. Defendant agrees to make this payment in full within 30 days of entering her guilty plea.

#### The Department's Obligations

10. The Department agrees that, except as provided in paragraphs 1 and 15, no further criminal charges will be brought against Defendant for any heretofore disclosed crime in which she engaged in her capacity as an officer and employee of Enron.

11. The Department further agrees that no statements made by Defendant during the course of her cooperation will be used against her in any criminal proceedings instituted by the Department, except as provided in paragraphs 1 and 15.

12. In consideration of Defendant's agreement to pay the sums set forth in paragraph 9(a) and 9(b) of this Agreement to the Enron estate and the SEC, respectively, the Department agrees that it will recommend (1) a criminal fine

within the range corresponding to Defendant's final offense level set forth in the fine table at USSG §5E1.2(c), and (2) that no additional restitution be ordered by the Court against Defendant. Defendant understands, however, that the Department's recommendation is not binding on the Court, and the Court may order Defendant to pay a greater fine and/or restitution notwithstanding the Department's recommendation. Should the Court order Defendant to pay a greater fine or restitution, she will not be permitted on that basis to withdraw her guilty plea.

13. If the Department determines, in its sole and exclusive discretion, that Defendant has cooperated fully, provided substantial assistance to law enforcement authorities, and otherwise complied with the terms of this Agreement, the Department will file a motion pursuant to USSG §5K1.1 and 18 U.S.C. § 3553(e) with the sentencing court setting forth the nature and extent of Defendant's cooperation. In this connection, Defendant understands that a determination by the Department as to whether Defendant has cooperated fully, provided substantial assistance, and otherwise complied with this Agreement, as well as the Department's assessment of the value, truthfulness, completeness, and accuracy of the cooperation, is binding on her. Defendant agrees that, in making these determinations, the Department may consider facts learned by the

Department both before and after the signing of this Agreement. The Department may or may not, in its sole and exclusive discretion, recommend to the Court a specific sentence to be imposed. Except as otherwise set forth in this Agreement, the Department will not make a promise or representation to Defendant as to what sentence will be recommended by the Department. The Department does not and cannot make any promise as to what sentence will be imposed by the Court.

#### Bankruptcy Waiver

14. Defendant agrees not to avoid or attempt to avoid paying any fine or restitution imposed by the Court in this proceeding, or the penalty prescribed in her separate agreement with the SEC, through any proceeding pursuant to the United States Bankruptcy Code. Defendant waives all rights, if any, to obtain discharge or to delay payment of any fine or restitution obligation arising from this proceeding or any proceeding brought by the SEC, or alter the time for payment by filing a petition pursuant to the Bankruptcy Code. Defendant stipulates that enforcement of any fine or restitution obligation arising from this proceeding by the Department or from a proceeding brought by the SEC is not barred or affected by the automatic stay provisions of the United States Bankruptcy Code and that enforcement of any fine or restitution obligation arising from this proceeding by the Department or any proceeding by the SEC is a valid exercise of its police or



Department both before and after the signing of this Agreement. The Department may or may not, in its sole and exclusive discretion, recommend to the Court a specific sentence to be imposed. Except as otherwise set forth in this Agreement, the Department will not make a promise or representation to Defendant as to what sentence will be recommended by the Department. The Department does not and cannot make any promise as to what sentence will be imposed by the Court.

#### Bankruptcy Waiver

14. Defendant agrees not to avoid or attempt to avoid paying any fine or restitution imposed by the Court in this proceeding, or the penalty prescribed in her separate agreement with the SEC, through any proceeding pursuant to the United States Bankruptcy Code. Defendant waives all rights, if any, to obtain discharge or to delay payment of any fine or restitution obligation arising from this proceeding or any proceeding brought by the SEC, or alter the time for payment by filing a petition pursuant to the Bankruptcy Code. Defendant stipulates that enforcement of any fine or restitution obligation arising from this proceeding by the Department or from a proceeding brought by the SEC is not barred or affected by the automatic stay provisions of the United States Bankruptcy Code and that enforcement of any fine or restitution obligation arising from this proceeding by the Department or any proceeding by the SEC is a valid exercise of its police or

regulatory power within the meaning of Title 11, United States Code, Section 362(b). Defendant stipulates and agrees not to institute or participate in any proceeding to interfere with, alter, or bar enforcement of any fine or restitution obligation arising from this proceeding or any proceeding by the SEC pursuant to the automatic stay or other provision of the Bankruptcy Code in any case filed by Defendant or her creditors. Upon request of the Department or the SEC, Defendant will execute a stipulation granting the Department or the SEC relief from the automatic stay or other Bankruptcy Code provisions in order to enforce any fine or restitution obligation arising from this proceeding. Defendant stipulates that any fine or restitution obligation imposed by the Court in this proceeding or in any proceeding filed by the SEC is not dischargeable pursuant to Title 11, United States Code, Section 523 in any case commenced by Defendant or her creditors pursuant to the Bankruptcy Code. Defendant's waivers, stipulations, and agreements set forth in this paragraph are made in exchange for the Department's entering into this Agreement.

#### Breach of Agreement

15. Defendant must at all times give complete, truthful, and accurate information and testimony, and must not commit, or attempt to commit, any further crimes, including but not limited to perjury, making false statements, and

obstruction of justice. Should Defendant violate any provision of this Agreement, Defendant will not be released from her guilty plea but the Department will be released from all its obligations under this Agreement, including its promise not to prosecute Defendant for any offenses arising from her employment at Enron.

Defendant agrees that, in any such prosecution, all statements and other information that she has provided at any time, including all statements she has made and all evidence she has produced during proffers, interviews, testimony, and otherwise, may be used against her, regardless of any constitutional provision, statute, rule, prior agreement, or other term of this Agreement to the contrary.

#### Scope

16. This Agreement does not bind any federal, state, or local prosecuting authority other than the Department, and does not prohibit the Department or any other department, agency, or commission of the United States from initiating or prosecuting any civil, administrative, or tax proceedings directly or indirectly involving Defendant.

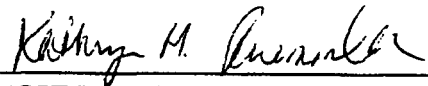
#### Complete Agreement

17. Apart from the written proffer agreement originally dated December 15, 2002, no promises, agreements or conditions have been entered into by the parties other than those set forth in this Agreement and none will be entered into unless

memorialized in writing and signed by all parties. This Agreement supersedes all prior promises, agreements, or conditions between the parties, including the written proffer agreement. To become effective, this Agreement must be signed by all signatories listed below and in the addenda.

Dated: Houston, Texas  
May 19, 2004

ANDREW WEISSMANN  
Director, Enron Task Force

By:   
JOHN H. HEMANN  
KATHRYN H. RUEMMLER  
Assistant United States Attorneys

ADDENDUM FOR DEFENDANT RIEKER

I have consulted with my attorneys and fully understand all my rights with respect to the Information filed by the United States Department of Justice, including my right to be charged by indictment returned by a grand jury in the Southern District of Texas. I have consulted with my attorneys and fully understand all my rights with respect to the provisions of the U.S. Sentencing Commission's Guidelines Manual which may apply in my case. I have read this Agreement and carefully reviewed every part of it with my attorneys. No promises have been made to me by the Department except as set forth in this Agreement. I waive my right to be charged by indictment. I understand this Agreement and I voluntarily agree to it.


Paula Rieker

Paula Rieker  
Defendant

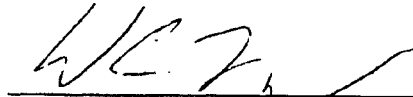
05/19/04  
Date

ADDENDUM FOR DEFENSE COUNSEL

I have fully explained to Defendant Rieker her rights with respect to the pending Information filed by the United States Department of Justice, including her right to be charged by indictment returned by a grand jury in the Southern District of Texas. I have reviewed the provisions of the U.S. Sentencing Commission's Guidelines Manual and I have fully explained to Defendant the provisions of those Guidelines which may apply in this case. I have carefully reviewed every part of this Agreement with Defendant. To my knowledge, Defendant's decision to waive indictment and enter into this Agreement is an informed and voluntary one.

  
\_\_\_\_\_  
Danny S. Ashby, Esq.  
Attorney for Defendant Rieker

05/19/04  
Date

  
\_\_\_\_\_  
Weston C. Loegering, Esq.  
Attorney for Defendant Rieker

05/19/04  
Date